

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 13-166—HB 5666

Judiciary Committee

**AN ACT CONCERNING SEXUAL EXPLOITATION AND
TRAFFICKING IN PERSONS**

SUMMARY: This act:

1. adds funds and property related to prostitution, 3rd degree promoting prostitution, and commercial sexual exploitation of a minor to the types of property subject to forfeiture as tainted funds and property related to sexual exploitation and human trafficking;
2. requires proceeds from an auction of forfeited property that remain after paying liens and costs to be deposited in the Criminal Injuries Compensation Fund, rather than the General Fund;
3. expands the crime of trafficking in persons;
4. increases the penalty for patronizing a prostitute from a class A misdemeanor (see Table on Penalties) to a class C felony when the actor knew or reasonably should have known at the time of the offense that the prostitute was (a) under age 18 or (b) the victim of conduct amounting to a crime of trafficking in persons under state law or involuntary servitude, slavery, or trafficking under federal law (§ 4);
5. allows anyone convicted of prostitution to apply to Superior Court to vacate the conviction because he or she was a victim of conduct amounting to a crime of trafficking in persons under state law or involuntary servitude, slavery, or trafficking under federal law;
6. makes changes to defenses to a prostitution charge;
7. requires the Office of the Chief Court Administrator to develop a concise notice about services for human trafficking victims and requires truck stops and certain establishments serving alcohol to post it in a conspicuous location where sales occur;
8. requires the Office of Victim Services (OVS) to (a) analyze the compensation and restitution services (such as medical, psychiatric, psychological, social, and social rehabilitation services) provided to victims of sexual exploitation and human trafficking and recommend legislation to enhance compensation and services and (b) report its findings to the Judiciary Committee by January 15, 2014 (§ 8);
9. alters the Trafficking in Persons Council's membership and requires it to report on deficiencies in the statutes relating to trafficking and propose legislation to address them; and
10. eliminates a requirement that the notice developed by the chief court administrator regarding victims' rights and available services be bilingual.

EFFECTIVE DATE: October 1, 2013, except the provisions on the OVS report and Trafficking in Persons Council are effective upon passage.

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§ 1 — FORFEITURE OF PROPERTY RELATED TO SEXUAL EXPLOITATION AND HUMAN TRAFFICKING

The act adds funds and property related to prostitution, 3rd degree promoting prostitution, and commercial sexual exploitation of a minor to the types of property subject to forfeiture as tainted funds and property related to sexual exploitation and human trafficking. Under existing law, the crimes that trigger these procedures are:

1. the portion of the risk of injury to a minor statute involving sale of a child younger than age 16;
2. 1st or 2nd degree promoting prostitution;
3. enticing a minor using an interactive computer service;
4. voyeurism or disseminating voyeuristic material;
5. human trafficking;
6. employing or promoting a minor in an obscene performance; and
7. importing child pornography.

By law, funds and property related to these crimes are subject to forfeiture if they are:

1. money used or intended for use in one of these crimes;
2. property constituting the proceeds obtained, directly or indirectly, from one of these crimes;
3. property derived from the proceeds obtained, directly or indirectly, from any sale or exchange for pecuniary gain from these crimes; or
4. property used or intended for use to commit or facilitate commission of one of these crimes for pecuniary gain.

Proceeds from Auction

The law requires the Department of Administrative Services to sell property ordered forfeited by the court at a public auction. Sale proceeds pay (1) the balance due on any lien the court determines should be paid; (2) property storage, maintenance, security, and forfeiture costs; and (3) court costs. The act requires that any remaining proceeds be deposited in the Criminal Injuries Compensation Fund, rather than the General Fund. By law, this fund provides compensation and restitution to certain crime victims.

§ 2 — TRAFFICKING IN PERSONS

Under prior law, a person committed the crime of trafficking in persons when he or she coerced another person to compel or induce that person to engage in prostitution or provide labor or services.

The act expands this crime in a number of ways. Under the act, a person commits trafficking in persons when he or she:

1. compels or induces another person to (a) engage in more than one occurrence of sexual contact (contact with another person's intimate parts) with at least one third person or (b) provide labor or services the person has a legal right to refrain from providing and
2. does so through coercion, fraud, or use or threatened use of force against

the person or a third person.

By law, trafficking in persons is a class B felony (see Table on Penalties).

§§ 3 & 5 — PROSTITUTION

§ 5 — *Vacating Conviction*

The act allows anyone convicted of prostitution to apply to Superior Court to vacate the conviction because he or she was a victim of conduct, at the time of the offense, that amounts to a crime of trafficking in persons under state law or involuntary servitude, slavery, or trafficking under federal law. The court must give the prosecutor a reasonable opportunity to investigate the claim and an opportunity to contest the application. If the defendant proves he or she was a victim of the conduct, the court must vacate the judgment and dismiss any charges related to the offense. The act provides that this cannot provide grounds for a compensation award based on wrongful arrest, prosecution, conviction, or incarceration under the statutes.

§ 3 — *Defenses*

The act (1) gives a person a defense to a prostitution charge if he or she was a victim of conduct that amounts to a federal crime of involuntary servitude, slavery, or trafficking in persons and (2) presumes that anyone under age 18 is a victim of this conduct. The law already provides a person with a defense if he or she was a victim of conduct that amounts to trafficking in persons under state law and someone under age 18 charged with prostitution is presumed to be a victim of this conduct.

The act also specifies that someone can assert the defense of duress to a charge of prostitution. By law, duress is a defense if (1) a person engaged in conduct because he or she was coerced by the use, or threatened imminent use, of physical force against that person or another and (2) a person of reasonable firmness in the situation would not be able to resist. The defense of duress is not available to people who intentionally or recklessly place themselves in a situation where it is probable that they will be subjected to duress.

§§ 6-7 — NOTICE OF SERVICES

The act requires the Office of the Chief Court Administrator to develop a concise notice about services for human trafficking victims. The notice must state the toll-free state and federal anti-trafficking hotline numbers that someone can use if he or she is forced to engage in an activity and cannot leave.

The act requires the office to make the notice available to truck stops and certain establishments serving alcohol, which must, when the notice is available to them, post it in plain view in a conspicuous location where sales occur. The act applies to truck stops defined as privately owned and operated facilities offering food, fuel, lawful overnight truck parking, and shower and laundry facilities. It also applies to anyone who holds an on-premises consumption permit for the retail sale of alcohol, except someone who only holds one or more of the

following permits:

1. caterer, railroad, boat, airline, military, charitable organization, or special club permit;
2. temporary liquor or temporary beer permit;
3. restaurant permit, restaurant permit for beer, restaurant permit for wine and beer, or café permit; or
4. farm winery or beer manufacturer permit, beer and brew pub manufacturer permit, or other manufacturer permit.

§§ 9-10 — TRAFFICKING IN PERSONS COUNCIL

Membership

The act changes the membership of the Trafficking in Persons Council. As of June 24, 2013, it removes as members the (1) attorney general; (2) chairpersons of the commissions on Children, African-American Affairs, and Latino and Puerto Rican Affairs; and (3) two Judicial Branch representatives appointed by the chief court administrator, one of whom represented the Court Support Services Division. The act also changes the House minority leader's appointment from someone representing the Asian-American community to someone representing the Motor Transport Association of Connecticut, Inc.

As under prior law, the other council members are the following people:

1. the chief state's attorney;
2. the chief public defender;
3. the children and families, emergency services and public protection, labor, mental health and addiction services, public health, and social services commissioners;
4. the child advocate;
5. the victim advocate;
6. the Permanent Commission on the Status of Women chairperson;
7. a municipal police chief, appointed by the Connecticut Police Chiefs Association;
8. an OVS representative, appointed by the chief court administrator;
9. a representative of Connecticut Sexual Assault Crisis Services, Inc., appointed by the governor;
10. a representative of an organization providing civil legal services to low-income individuals, appointed by the Senate president pro tempore;
11. a representative of the Connecticut Coalition Against Domestic Violence, appointed by the House speaker;
12. a representative of an organization dealing with women's and children's behavioral health needs, appointed by the Senate majority leader;
13. a representative of an organization advocating on social justice and human rights issues, appointed by the House majority leader; and
14. a representative of the Connecticut Immigrant and Refugee Coalition, appointed by the Senate minority leader.

The act eliminates the ability of the OVS representative to designate someone to serve on his or her behalf. As under prior law, members other than those

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appointed by the governor and legislative leaders can designate someone to serve as their representatives. But the act no longer requires them to make the designation in writing.

Report on Statutory Deficiencies

The act requires the council to meet by September 1, 2013 to study data relating to trafficking in persons offenses in Connecticut. The council must examine and identify deficiencies in the statutes and propose legislation to address any deficiencies. The act requires the council to report to the Judiciary Committee by January 1, 2014.

By law, the council must meet to (1) provide updates and progress reports; (2) identify criteria for providing services to adult trafficking victims; and (3) consult with government and non-government organizations to develop recommendations to strengthen state and local efforts to prevent trafficking, protect and assist victims, and prosecute traffickers. It may request data and information from state and local agencies to carry out its duties. It must meet at least three times per year and report annually by January 1 to the legislature.

BACKGROUND

Prostitution

A person age 16 or older commits this crime when he or she engages, or agrees or offers to engage in, sexual conduct with someone for a fee. Prostitution is a class A misdemeanor.

3rd Degree Promoting Prostitution

A person commits this crime when he or she knowingly advances or profits from prostitution. This crime is a class D felony.

OLR Tracking: CR:PF:JKL:RO